



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 28 2004

REPLY TO THE ATTENTION OF

(AE-17J)

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

Corrine L. Kupstas, Director, EHS  
Perrigo Company  
117 Water Street  
Allegan, Michigan 49010

Re: Perrigo Company  
Administrative Order

Dear Ms. Kupstas:

Enclosed is a copy of the executed Administrative Order regarding the above captioned case.

If you have any questions about the Order, please contact Rhonda Land at (312) 886-6867.

Sincerely,

A handwritten signature in black ink, appearing to read "LH Rosen", is written over the typed name of Linda H. Rosen.

Linda H. Rosen, Chief  
Air Enforcement and Compliance Assurance Section (MI/WI)  
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Tom Hess, Section Supervisor  
Compliance and Enforcement, Air Quality Division  
Michigan Department of Environmental Quality

Mary Douglas, District Supervisor  
Kalamazoo District Office  
Michigan Department of Environmental Quality



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	
	)	
Perrigo Company	)	<b>Administrative Order</b>
Allegan, Michigan 49010	)	
	)	<b>EPA-5-04-113(a) MI-5</b>
	)	
Proceeding Under	)	
Section 113(a)(3) of	)	
the Clean Air Act,	)	
42 U.S.C. § 7413(a)(3)	)	

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**Administrative Order**

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to Perrigo Company (Perrigo), located in Allegan, Michigan under Section 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3).

**Statutory and Regulatory Background**

2. The Stratospheric Ozone Standards, which implements the Stratospheric Ozone Protection provisions found in Subchapter VI of the Act, 42 U.S.C. §§ 7671-7671q, is codified at 40 C.F.R. Part 82.

3. The Stratospheric Ozone Standards in 40 C.F.R. Part 82, Subpart F set forth service, maintenance, repair, and disposal requirements for "appliances," as that term is defined under the program.

4. 40 C.F.R. § 82.152, defines "industrial process refrigeration" as complex customized appliances used in the chemical, pharmaceutical, petrochemical and manufacturing industries.

5. 40 C.F.R. § 82.156(i)(2), requires that an owner or operator of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant must have leaks repaired if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period.

6. 40 C.F.R. § 82.166(k), requires that an owner or operator of appliances normally containing 50 or more pounds of refrigerant keep servicing records documenting the date and type of service, as well as the quantity of refrigerant added.

7. 40 C.F.R. § 82.156(i)(3), requires that an owner or operator of industrial process refrigeration equipment perform an initial verification at the conclusion of repair efforts.

8. 40 C.F.R. § 82.156(i)(3), requires that an owner or operator of industrial process refrigeration equipment perform a follow-up verification test within 30 days to ensure that repairs have been successful.

9. 40 C.F.R. § 82.166(n), requires that an owner or operator of appliances maintain on site and report to U.S. EPA the following information for all leaks that require repair under 40 C.F.R. § 82.156(i)(2) and (i)(5): identification of the facility; the leak rate; the method used to determine the leak rate and full charge; the date a leak rate of greater than the allowable annual leak rate was discovered; the location of leaks(s) to the extent determined to date; any repair work that has been completed thus far; and the date that work was completed.

### **Findings**

10. Perrigo owns and operates a pharmaceutical plant at 515 Eastern Avenue, Allegan, Michigan. This plant contains industrial process and comfort cooling refrigeration units with a normal charge of over 50 pounds.

11. The industrial process refrigeration units PLT-879, PLT-305, PLT-088, PLT-364, PLT-505, PLT-198, PLT-1587, and PLT-1738 contain 50 or more pounds of the class II refrigerant R-22.

12. The comfort cooling units PLT-1518 contain 50 or more pounds of the class II refrigerant R-22.

13. The industrial process refrigeration units and comfort cooling units referenced above experienced leaks resulting in loss of R-22 between May 4, 2000 and June 3, 2003.

14. Perrigo failed to keep adequate servicing records pursuant to 40 C.F.R. § 82.166(k), documenting the type of service to include the initial and/or follow-up leak verification checks for leaks serviced on the following units on the following days:

- A. PLT-879
  - i. June 21, 2000
  - ii. June 13, 2001
  - iii. June 3, 2003
- B. PLT-305
  - i. July 11, 2002
- C. PLT-088
  - i. June 8, 2001
  - ii. June 19, 2001
- D. PLT-364
  - i. August 6, 2002
- E. PLT-505
  - i. April 28, 2003
- F. PLT-198
  - i. July 17, 2002
- G. PLT-1587
  - i. January 31, 2003
  - ii. February 14, 2003
- H. PLT-1738
  - i. May 7, 2001

15. Perrigo failed to record the leak rate or the method used to determine the leak rate after leaks were identified on any industrial process refrigeration unit and comfort cooling units during the period from May 9, 2000 to the present pursuant to 40 C.F.R. § 82.166(n).

16. Perrigo failed to record the quantity of refrigerant added when servicing unit PLT-1518 on June 14, 2001 pursuant to 40 C.F.R. § 82.166(n).

#### **Compliance Program**

17. Perrigo shall comply with all applicable regulations found in 40 C.F.R. Part 82, including but not limited to the service, maintenance, repair, and disposal requirements set forth in Subpart F.

#### **General Provisions**

18. This Order does not affect Perrigo's responsibility to comply with other local, state, and federal laws and regulations.

19. This Order does not restrict U.S. EPA's authority to enforce Section 608 of the Act, or any other section of the Act.

20. Nothing in this Order limits U.S. EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Perrigo's violation of the Stratospheric Ozone Protection Program.

21. Failure to comply with this Order may subject Perrigo to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (amending 40 C.F.R. Part 19)

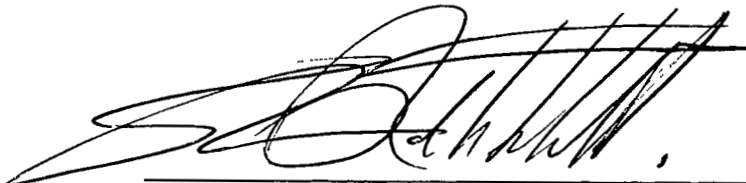
22. The terms of this Order are binding on Perrigo, its assignees and successors. Perrigo must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Perrigo has given the notice.

23. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

24. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

25. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, if Perrigo has complied with all of its terms.

9/28/2004  
Date

  
Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. EPA, Region 5

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent the Administrative Order, EPA Order No. EPA-5-04-113(a) MI-5, by Certified Mail, Return Receipt Requested, to:

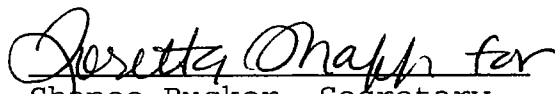
Ms. Corrine L. Kupstas  
Director, EHS  
Perrigo Company  
117 Water Street  
Allegan, Michigan 49010

I also certify that I sent copies of the Administrative Order by first class mail to:

Tom Hess, Section Supervisor  
Compliance and Enforcement  
Air Quality Division  
Michigan Department of Environmental Quality  
525 West Allegan Street  
P.O. Box 30260  
Lansing, Michigan 48933

Mary Douglas, District Supervisor  
Kalamazoo District Office  
Michigan Department of Environmental Quality  
7953 Adobe Road  
Kalamazoo, MI 49009-5026

on the 28<sup>th</sup> day of September, 2004.

  
Shantee Rucker, Secretary  
AECAS (MI/WI)

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